

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

WILMER ESPINAL ALVARADO )  
                               )  
Petitioners,                 )  
                               )  
v.                             ) Civil Action No. 20-10685-ADB  
                               )  
                               )  
ANTONE MONIZ,                 )  
                               )  
Respondent.                 )

**RESPONDENT'S MOTION TO DENY PETITIONER'S HABEAS PETITION**

Respondent Antone Moniz, Superintendent of the Plymouth County Correctional Facility (“Respondent”), by and through his attorney, Andrew E. Lelling, United States Attorney for the District of Massachusetts, respectfully moves this Court to deny Petitioner Wilmer Espinal Alvarado’s (“Petitioner”) Emergency Amended Petition for Writ of Habeas Corpus and Injunctive Relief (the “Alvarado Petition”) (Doc. # 8) for lack of subject matter jurisdiction and for failure to state a claim on which relief can be granted. The grounds for this motion are set forth in the accompanying memorandum of law and exhibits. In addition, Respondent expressly incorporates arguments made in his motion to dismiss filed yesterday in response to the Augusto Petition, including the argument that this Court lacks habeas jurisdiction. Doc. # 21; Doc. # 22.

WHEREFORE, Respondent respectfully requests that the Court deny the Alvarado Petition and dismiss him from the case. Alternatively, Respondent respectfully requests that the Court sever Petitioner from this case and transfer the Alvarado Petition to *Alvarado v. Moniz*, No. 20-10309-PBS (D. Mass.).

Respectfully submitted,

ANDREW E. LELLING,  
United States Attorney

By: /s/ Jason C. Weida  
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Dated: April 16, 2020

**LOCAL RULE 7.1(a)(2) CERTIFICATION**

I hereby certify that, by email on April 15 and 16, 2020, and by telephone on April 16, 2020, I conferred with counsel for Petitioner, who would not assent to the relief sought in this motion.

/s/ Jason C. Weida  
Jason C. Weida  
Assistant U.S. Attorney